

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION

No. 4:12-CV-275-FL

ANTHONY L. MCNAIR,

Plaintiff,

v.

CITY OF ROCKY MOUNT POLICE
DEPARTMENT, and CITY OF ROCKY
MOUNT

Defendants.

ORDER

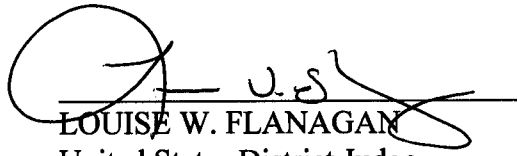
This matter is before the court on plaintiff's motion for leave to proceed *in forma pauperis* (DE # 1), filed November 26, 2012, and the memorandum and recommendation ("M&R") of Magistrate Judge William A. Webb (DE # 6), filed on December 26, 2012, pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b), recommending that plaintiff's proposed complaint be dismissed because the proposed complaint is frivolous. Plaintiff filed objections to the M&R on January 2, 2013 (DE # 8).

Upon *de novo* review of the M&R, the complaint, and plaintiff's objections, the court ADOPTS the M&R as its own and OVERRULES the objections to the M&R, finding that the M&R sufficiently explains the basis for dismissal of this action. For the reasons stated in the M&R, the motion for leave to proceed *in forma pauperis* (DE #1) is GRANTED but plaintiff's complaint is DISMISSED. The clerk is directed to close this case.

Moreover, where ambiguities in plaintiff's filings, including his so-called affidavit in support

of his complaint and his objections to the M&R, prevent the court from definitively determining if plaintiff's complaint was filed was in violation of his pre-filing injunction, the court construes these ambiguities in plaintiff's favor. Plaintiff is, however, noticed, that the court may not so leniently interpret his filings in the future where it appears any violation exists of said injunction.

SO ORDERED, this the 27th day of February, 2013.


LOUISE W. FLANAGAN
United States District Judge